



Green Mountain Care: A Comprehensive Model for Building Vermont's Universal Health Care System

Report Appendices

Submitted by Governor Peter Shumlin to the Vermont
State Legislature December 30, 2014

Appendices – Table of Contents

A. Population Information

- A-1. 5-Year Comparison of Vermont Populations under ACA and GMC
- A-2. Coverage for Vermont Populations under GMC
- A-3. Legislative Council Memorandum on Residency

B. GMC Benefits Information

- B-1. Detailed Information on Benefit Design
- B-2. Recommended GMC Cost-Sharing Designs
- B-3. Vermont Essential Health Benefits Detail
- B-4. GMC Plan Designs Considered
- B-5. Presentation to GMCB Dec 4, 2014
- B-6. Presentation to GMCB Dec 11, 2014
- B-7. Presentation by Ellen Meara, Ph.D on Health Economics: Value Based Benefit Design
- B-8. Department of Human Resources Benefit Summary SELECTCARE 2014
- B-9. Scenarios Illustrating Benefit Designs
- B-10. GMC Secondary: Adding a Out-Of-Pocket Limit To Medicare

C. Microsimulation Modeling

- C-1. GMSIM Description
- C-2. Microsimulation Assumptions

D. Actuarial Modeling

- D-1. Actuarial Cost Analysis and Assumptions
- D-2. Memorandum on Reserves and Reinsurance

E. Waivers

- E-1. All-Payer Waiver Concept Paper
- E-2. Affordable Care Act Waiver Background

F. Financing Background Information

- F-1. Medicaid
- F-2. Detailed Information on Financing
- F-3. Alternative Financing Concepts
- F-4. GMC Public Premium Exclusions and Credits

Appendix A-1: 5-Year Comparison of Vermont Populations under ACA and GMC

	2017		2018		2019		2020		2021	
	ACA	GMC								
Non-group Insurance	49,000	-	51,000	-	50,000	-	49,000	-	49,000	-
Medicaid Primary	141,000	-	142,000	-	141,000	-	141,000	-	140,000	-
Employer Sponsored Insurance	296,000	31,000	289,000	15,000	287,000	2,000	286,000	2,000	283,000	2,000
Private ESI	216,000	31,000	212,000	15,000	211,000	2,000	210,000	2,000	208,000	2,000
State ESI	26,000	-	26,000	-	26,000	-	25,000	-	25,000	-
Local ESI	14,000	-	14,000	-	13,000	-	13,000	-	13,000	-
Muni ESI	40,000	-	38,000	-	37,000	-	37,000	-	37,000	-
Federal Government Employee Insurance	10,000	-	10,000	-	10,000	-	10,000	-	10,000	-
Uninsured	17,000	-	18,000	-	18,000	-	18,000	-	18,000	-
Medicare	140,000	140,000	144,000	144,000	148,000	148,000	152,000	152,000	156,000	156,000
Individuals Supplementing Medicare	36,000	36,000	37,000	37,000	38,000	38,000	39,000	39,000	41,000	41,000
Medicaid/GMC Medicare Supplementation	37,000	37,000	37,000	37,000	38,000	38,000	39,000	39,000	40,000	40,000
Employer Medicare Supplementation	22,000	22,000	23,000	23,000	24,000	24,000	25,000	25,000	25,000	25,000
Military Insurance	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
GMC Enrollment	-	519,000	-	533,000	-	544,000	-	542,000	-	538,000
Population of Commuters in on GMC	61,000	61,000	64,000	64,000	66,000	66,000	66,000	66,000	65,000	65,000

Appendix A-2: Coverage for Vermont Populations under GMC

Description	Primary Coverage	Secondary Coverage	Contribution to GMC	Considerations
Medicare:				
Seniors (over age 65)	Medicare	Vermont's Current Medicare wrap programs, such as VPharm, QMB, and SLMB would stay the same.	None	Medicare Supplemental Insurance would remain available.
Individuals with disabilities (over 24 months)	Medicare	Vermont's Current Medicare wrap programs, such as VPharm, QMB, and SLMB would stay the same.	None	Medicare Supplemental Insurance would remain available.
Military:				
Active duty military ¹	TRICARE	None while on TRICARE	None while on TRICARE	GMC coverage is suspended. GMC would be available as soon as the individual drops or is no longer eligible for coverage. Individuals who are eligible for enhanced benefits from Medicaid would maintain enhanced benefits through GMC.

¹ In order for TRICARE to be primary coverage, a state statutory change is needed. This is because, under federal law, TRICARE is always secondary, except to Medicaid.

Description	Primary Coverage	Secondary Coverage	Contribution to GMC	Considerations
National Guard	TRICARE, while on active duty	None while on TRICARE	None while on TRICARE	Vermonters with the Guard would have GMC coverage while not on active duty & can suspend that coverage during the time period they are on active duty.
Veterans	VA insurance, if applicable	None while using VA insurance	None while using VA insurance	Insurance provisions expire in August 2017 or sooner. ² Veterans may use the VA Hospital for services as well, but are not required to under GMC.
Public employees:				
Federal employees taking federal insurance (FEHB)	Federal employee insurance	GMC	Full contribution	
State employees	GMC	Depends on bargaining agreement	Full contribution	
Public education employees	GMC	Depends on bargaining agreement	Full contribution	
Municipal employees	GMC	Depends on bargaining agreement	Full contribution	
Employees in the private sector:				
Employees not taking private employer sponsored insurance (ESI)	GMC	N/A	Full contribution	

² Veterans Access, Choice, and Accountability Act of 2014 § 101(p) states that the Veteran's Choice program will end after amounts in Veteran's Choice Fund are exhausted or after three years from enactment, whichever is first. The bill was enacted on August 7, 2014.

Description	Primary Coverage	Secondary Coverage	Contribution to GMC	Considerations
Employees taking private employer sponsored insurance (ESI)	ESI	GMC	Full contribution	
Non-residents working for a Vermont employer	GMC, ESI, or Exchange coverage from state of residence	N/A	Optional contribution	Non-residents working for a Vermont employer may purchase GMC coverage.
Retirees:				
Retiree not on Medicare with no other coverage	GMC	N/A	Full contribution	
Retiree not on Medicare with private employer coverage	Employer retiree coverage	N/A	No contribution	GMC creates a ten year window where non-Medicare retirees with employer coverage are exempt from GMC coverage and taxes.
Retiree on Medicare	Medicare or retiree plan	Medicare supplemental or retiree plan	No contribution	
Resident state or education employee retiree	GMC if not on Medicare, otherwise, Medicare	Depends on bargaining agreement, but retirees on Medicare will have state retiree plan	Full contribution to GMC if not on Medicare, otherwise no contribution	



Description	Primary Coverage	Secondary Coverage	Contribution to GMC	Considerations
Non-resident state or education employee retiree	State retiree plan if not on Medicare, otherwise, Medicare	If on Medicare, state retiree plan	No contribution to GMC	

Appendix A-3. Legislative Council Memorandum on Residency

MEMORANDUM

To: Senate Health & Welfare Committee

From: Robin Lunge, Bill Russell

Date: April 6, 2006

Subject: Durational Residency Requirements for Health Care Coverage

The U.S. Supreme Court has imposed strict constitutional limits on the imposition of residency requirements as a condition for receipt of state benefits. In short, a state may establish residency requirements to insure that benefits of state citizenship inure only to citizens of the state. However, *durational residency requirements* – those that require a period of residency in the state prior to receipt of benefits – are extremely problematical and probably prohibited.¹

The Court's decisions are based on a constitutional "right to travel" protected by both the Equal Protection Clause of the 14th Amendment and the Privileges or Immunities Clause of that amendment.²

Equal Protection Cases

In the earlier cases decided in the 1970s, the Court's holding was based on the Equal Protection Clause. In those cases, the court found that the right to travel was such a fundamental right that it would apply a "strict scrutiny" analysis to balance the purported governmental justification underlying any state residency requirement with the burden of that right. Significantly, based on that analysis, the Court struck down an Arizona statute which required one year of residency within the county as a condition of eligibility for non-emergency medical care at public expense. The Court held that restricting medical care for indigents from other states severely burdened the right to travel under the Equal Protection Clause.³

However, in some of the Court's Equal Protection Clause decisions in the decade of the 1970s, a durational residency requirement was upheld because the right to travel was

¹ Durational requirements would include any restrictions in coverage of pre-existing conditions and requirements for "credible coverage" (defined in ERISA and HIPAA) which apply only to recent residents of Vermont.

² Although the word "travel" is found nowhere in the text of the Constitution, the Court found that the "right to travel from one state to another is firmly embedded in our jurisprudence." In fact, "the right is so important that it is a virtually unconditional personal right, guaranteed by the constitution to us all." *Saenz v. Roe*, 526 U.S. 489, 498 (1999)

³ *Memorial Hospital v. Maricopa County*, 415 U.S. 250 (1974).

apparently not sufficiently burdened by those requirements. These decisions are not easily reconcilable. They include upholding durational residency requirements for the following:

In-state college tuition rates. “The state can establish such reasonable criteria for in-state status as to make virtually certain that students who are not in fact bona fide residents of the state, but have come there solely for educational purposes, cannot take advantage of the in-state rates.”⁴

Divorce. The Court upheld a one-year residency requirement for the ability to obtain a divorce in state courts.⁵

Voting in political party primaries. The Court upheld political party registration restrictions that amounted to a durational residency requirement for voting in primary elections.⁶

Privileges or Immunities Cases

However, whatever possibility that may have existed for sustaining some durational residency requirements under the 14th Amendment’s Equal Protection Clause (above) seems to have been foreclosed by the Court’s more recent rulings under the Privileges or Immunities Clause.

The controlling decision is *Saenz v. Roe*, 526 US 489 (1999), in which the U.S. Supreme Court struck down a California statute imposing durational residency requirements by limiting welfare benefits in a recipient’s first year of residency to the amount of benefits that the recipient would have received from the state of former residence. In this decision, the Court asserted and expanded upon the “right to travel.” It includes “for those travelers who elect to become permanent residents, the right to be treated like other citizens of that state.”⁷ It is therefore constitutionally impermissible for a state to establish two classes of benefits for new and older residents. Newly arrived citizens have the same right to enjoy the “privileges or immunities” as other citizens of the same state. This “citizenship clause” does not allow for degrees of citizenship based on length of residence.⁸

In short, “it appears that the Court’s invocation of the Privileges or Immunities Clause prohibits durational residency requirements in every context.”⁹ In dissent, Chief Justice Rehnquist eschewed this rationale based on creating a “conflated” right to travel. The

⁴ *Vlandis v. Kline*, 412 U.S. 441(1973).

⁵ *Sosna v. Iowa*, 419 U.S. 393 (1975).

⁶ *Rosario v. Rockefeller*, 410 U.S. 752 (1973).

⁷ *Saenz v. Roe*, 526 US 489, 500 (1999)

⁸ *Id.* at 504.

⁹ *Id.* at 514-516, (Rehnquist, C.J., dissenting) (stating that virtually all classifications of citizenship based on the length of state residency will violate the Privileges and Immunities Clause of the 14th Amendment).

right, he asserted, is properly defined as the right of a person to become a citizen of another state. There is no infringement on travel.

Chief Justice Rehnquist also stresses the irreconcilability of the Court’s durational residency decisions. “If states can require individuals to reside in-state for a year before exercising the right to educational benefits, the right to terminate a marriage, or the right to vote in primary elections, then states may surely do the same for welfare benefits . . . the durational residency requirement challenged here is a permissible exercise of the state’s power to assure that services provided for its residents are enjoyed only by residents.”¹⁰

A “Wait and See” Approach

In California, Senate Bill 840 would provide comprehensive universal health care to all Californians, including undocumented residents, using a single-payer publicly financed mechanism. Included in the bill is the provision which, after two years of plan implementation, would give the commissioner the discretion to impose a waiting period on eligibility if the commissioner determines that “large numbers of people are emigrating to the state for the purpose of obtaining health care through the California Health Insurance System.” (SB 840 §140200(c)(10)(G)). Additionally, the bill specifies that any implementation of a waiting period must be done on a statewide basis. (SB 840 §140204(d)).

Conclusion

Durational residency requirements in state legislation (those that distinguish among residents of a state based on length of residency) are difficult to support for at least two reasons.

First, if federal funds (such as Medicaid) are involved, federal requirements usually prohibit different classes of eligibility based on length of residence in the state.

Second, the U.S. Supreme Court has held that a citizen’s “right to travel”, protected by the 14th Amendment, is infringed by denying newly arrived residents the same benefits a state provides to longer term residents. Like any constitutional right, this right to travel is not absolute. Some infringement may be permissible, but only by a showing of an extremely compelling state interest.¹¹

Applying these considerations to the health care legislation proposed last year:

We recommended no durational residency requirement for pharmaceutical programs in H.516. These programs intermingle federal funds. Also, while VT has provided

¹⁰ Id. at 520 – but this of course is in dissent.

¹¹ In the most recent controlling decision, *Saenez v. Roe*, 526 US 489 (1996), California was unable to show that the fiscal savings to the state gained through a differential in welfare benefits paid to short term residents was not enough of a compelling state interest to justify infringing the right to travel.

generally better pharmaceutical benefits than most other states, there is little evidence that this has caused a migration into the state causing a significant enough fiscal impact to the state to justify infringing the right to travel. These programs would use Medicaid funds for their support.

We recommended a reasonable durational residency requirement for the House-passed universal access health care program in H.524. This program would be state funded; Medicaid would be separate. And, what is at stake is more than a minor impact on the state's finances; arguably there is a compelling state interest. The health care system, every citizen's medical care, the state's entire budget, and the state's economy as a whole may be impacted sufficiently to justify some infringement on the constitutional right to travel.